IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Bail Appl..No. 7647 of 2007()

CRIME NO.72/2005 OF ERUMAPPETTY POLICE STATION

: PETITIONER/IST ACCUSED

SHAJU, E/O. KUNJIMARACKAR,
KOTTILINGIL HOUSE, ELLARAKKADU VILLAGE,
VELLARAKKADU, THRISSUR DISTRICT.

BY ADV. SRI.C.A.CHACKO

RESPONDENTS: STATE

THE STATE OF KERALA
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7647 of 2007

Dated this the 12th day of December 2007

O R D E R

Application for anticipatory bail. The petitioner faces indictment in an offence punishable under Section 325 read with 34 I.P.C. Cognizance was taken as early as in 2005. Consequent to non-appearance of the petitioner, the case has been transferred to the list of long pending cases. Coercive processes have been issued against the petitioner. The petitioner apprehends imminent arrest in execution of such processes.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The matter has been settled between the parties. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Needless to say, if the matter is settled between the parties, the petitioner can appear before the learned Magistrate along with the complainant and seek composition of the compoundable offence.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007